DETAILED ACTION

1.   Amendment received on August 4, 2008 has been acknowledged. Claim 14 has

been amended. Therefore, claims 9-20 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claim 14 recites the limitation "the participant IDs" in line 15 and line 17. There

is insufficient antecedent basis for this limitation in the claim.

4.   Claim 20 recites the limitation "the participant IDs" in line 1 and line 3. There is

insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

6.   **Claims 9-20 are rejected under 35 U.S.C. 102(e) as being obvious by**

Galuten et al. (2005/0192871).

   As per Claims 9 and 15, Galuten et al. discloses the claimed process for computing

accounting information pertaining to a transaction that crosses business boundaries in a

value chain having two or more participating businesses or entities and computer

medium with instructions, comprising the steps:

(1) identifying a buyer participant in a transaction that crosses business

boundaries using the consumer identification code (Figure 11, Retailer ID 2116) in an

RDR data structure (Figure 11, Handle 2100) recording data of said transaction;

(2) identifying a seller participant in said transaction using a customer identification

code (Figure 11, Distributor ID) in said RDR data structure (Figure 11, Handle 2100, the

handle can include information identifying each participant in the value chain, any entity

that participated in the creation, resolution or transmission of the content that might

receive some compensation for their participation (Paragraph [0115]). Where the

applicant defines an RDR data structure as a resource exchange transaction including

time of the transaction, type and amount of resource involved and participants involved

in the transaction) recording data of said transaction;

(3) identifying a product type involved in said transaction (Figure 11, Object ID 2110

and SKU ID 2112 precisely identify the product);

(4) identifying a product instance involved in said transaction (Figure 11, SKU ID

2112, is a numbering system to keep stock of each unit);

(5) identifying a price plan (Paragraph [0085] Specific Content Financial Contract)

which records data defining the terms which govern calculation of charges for units of

said product type consumed in said transaction (Paragraph [0085] discuss a set of

business terms expressing a contractual relationship for division of revenues between a

distributor and a specific authorized retailer for a specific unit of content);

(6) calculating a payment amount using a price per unit from said price plan
(Paragraph [0085] discuss a retailer pays distributor $10 for content sale up to 50,000
sales, $9 between 50,000 and 100,000 sales, $8 over 100,000 sales) and a number of
units consumed from said RDR recording data pertaining to said transaction (Paragraph
[0124] discuss for an associated content a single handle may contain more than one
Object ID, each referencing one piece of content);

(7) finding a balance object which records the monetary balance as between said
buyer participant and said seller participant in said transaction (Figure 10, Payment
Model 1212), and adding or subtracting the calculated payment amount to a balance
recorded in said balance object (Figure 10, depicts the cost of the use request is
compared to the consumer's remaining budget level (step 1222). If there are sufficient
funds (determined at Step 1224), the remaining budget level is adjusted and a micro
transaction is created (Step 1226) which is added to the consumer's past micro
transactions (Step 1228), as appropriate;

(8) determining if there is another tier in said value chain (Paragraph [0047] discuss
some countries there may be implications for other "Rights" holders, such as the
Performing Rights Societies or Mechanical Rights Societies, to have the distributor act
as the collection agent for these rights with the obligation to pay immediately and
directly the payments due to these societies);

(9) if there is another tier in said value chain, selecting two participant identification
codes for participants on said tier and repeating steps (1) through (7) using said RDR
and said two participant identification codes selected in this step 9 as said consumer

and customer identification codes as appropriate (Paragraph [0115] discuss the handle

can include information identifying each participant in the value chain, i.e., any entity

that participated in the creation, resolution or transmission of the content that might

receive some compensation for their participation);

repeating steps (8) and (9) as many times as is necessary to process account

balances between all participants on all tiers in said value chain (Paragraph [0024]

discuss the Financial Clearinghouse credits the value chain participants, including the

retailer, distributor, and content owner e.g., royalties where appropriate).

As per Claims 10 and 16, Galuten et al. discloses a process and computer medium

with instructions wherein said step of identifying a product type is accomplished by

reading a resource type field in said RDR data structure (Paragraph [0127] discuss the

Media ID identifies the physical media on which the content resides CD, ECD or DVD,

etc.).

As per Claims 11 and 17, Galuten et al. discloses the process and computer

medium with instructions wherein said step of identifying a product instance is

accomplished by searching all product instances data objects for ones which have

pointers-to said buyer participant involved in said transaction (Paragraph [0104] discuss

a consumer enters various keywords that are sent to the Content Catalog module. The

Content Catalog will return a list of the content whose description or meta-data matches

the keywords from the request, where the request is a pointer to the consumer within

the transaction), and

searching the resulting product instance data objects (Figure 3, Step 622) for the

one which has a pointer to said product type involved in said transaction (Figure 3, Step

624)

As per Claims 12 and 18, Galuten et al. discloses the process and computer

medium with instructions wherein said step of identifying a price plan (Figure 10, Step

1212) involves following pointers in said product type and product instance data objects

(Figure 10, Step 1210) which both point to a data object recording the appropriate price

per unit price plan pertaining to this transaction (Figure 10, Steps 1222-1234).

As per Claims 13 and 19, Galuten et al. discloses a process and computer medium

with instructions wherein said step of determining whether there is another tier in said

value chain (Paragraph [0126] discuss identifiers may also be included in the handle to

identify each of the value chain participants i.e. a value chain ID) comprises determining

if there is a valid supplier ID in said RDR (Paragraph [0129] discuss the reference

service can use the information in the handle, such as the Retailer ID, to determine a

valid offer based on the commercial information available from that retailer).

As per Claims 14 and 20, Galuten et al. discloses the process and computer

medium with instructions wherein step (9) comprises modifying original RDR by shifting

the participant IDs so that the customer ID in the original RDR is shifted to the

consumer ID field in the modified RDR and the supplier ID in the original RDR is shifted

to the customer ID field in the modified RDR (Paragraph [0128] discuss an entity that

creates the reference is the instantiator. This can be the distributor, the retailer, or the

consumer. For example, when the consumer creates a reference by dragging a song

from a play list in the player, they create a reference with the Instantiator ID set to the

<u>Consumer ID, which clearly describes a process of modifying the participant ID</u>).

Response to Arguments

7.   Applicant's arguments filed on August 4, 2008 have been fully considered but

they are not persuasive.

Applicant argues: *"The underlined language only teaches that the handle can*

include information identifying each participant in the value chain. It does not specifically

teach determining if there are more pairs, selecting two identification codes of

participants in the value chain and using the RDR and the participant ID codes and

repeating steps 1-7 of the process to calculate the balance as between the pair of

participants just selected. Specifically, claim elements (8) and (9) state the foregoing

process in the following specific way which is not anticipated by the underlined

language of the Galuten reference or any other teaching therein:

(8) determining if there is another tier in said value chain

(9) if there is another tier in said value chain, selecting two participant

identification codes for participants on said tier and repeating steps (1) through

(7) using said RDR and said two participant identification codes selected in this

step 9 as said consumer and customer identification codes as appropriate;

repeating steps (8) and (9) as many times as is necessary to process account

balances between all participants on all tiers in said value chain.

Examiner respectfully disagrees. Applicant discloses in claims 9 and 15:

(8) determining <u>if there is another tier in said value chain</u>,

> *(9) if there is another tier in said value chain, selecting two participant*
>
> *identification codes for participants on said tier and repeating steps (1) through*
>
> *(7) using said RDR and said two participant identification codes selected in this*
>
> *step 9 as said consumer and customer identification codes as appropriate.*

The Examiner notes, even though the Galuten et al. reference discloses all the

limitations of claims 9 and 15 as indicated supra, the *"determining if there is another tier*

in said value chain and *if there is another tier in said value chain..."* step of claim 9 and

15 is a conditional limitation and is given little patentable weight. Methods are

composed of actions, when you perform the actions of a method and do not select one

of the alternatives or "if" steps, you are not performing any action under those

alternatives. Accordingly, and as in the method itself, once a positively recited step is

satisfied, the method as a whole is satisfied - regardless of whether or not other steps

are conditionally invocable under certain other hypothetical scenarios.

> *Applicant further argues: "Further, it is not clear that the teachings of the "handle"*
>
> *data structure in the 2005 patent publication US 2005/0192871 are prior art since that*
>
> *publication was of a patent application filed on February 15, 2005 which is not prior art*
>
> *to the application at bar which was filed on 7/10/2003. The 2005 patent appears to be a*
>
> *continuation in part of a patent application filed 12/23/99 which matured into US patent*
>
> *7,209,892 and was also a CIP of two other patent applications filed in 2000 (1/8/00 and*
>
> *6/12/00 filing dates) both of which were abandoned. The term "handle" designating the*
>
> *data structure of Figure 11 of US 2005/0192871 does not even appear in the 1999*
>
> *patent US patent 7,209,892. There is no "handle" data structure like the RDR of the*

system of the invention in the 1999 patent. At this time, applicant does not know the

content of the 2000 patent applications so no admission is made herein that the

"handle" data structure of Figure 11 of US 2005/0192871 is even prior art to the patent

application at bar."

Examiner respectfully disagrees. Galuten et al. (PG PUB. 2005/0192871) claims

priority to applications 09/471,971 which is now Patent # 7,209,892, application

09/486,759 and 09/614,106, which entire disclosures of all three applications are

incorporated by reference. The "handle data structure" is disclosed in application

09/486,759, and is therefore a viable prior art reference to the applicants claimed

invention.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ashford S. Hayles whose telephone number is 571-270-

5106. The examiner can normally be reached on Monday thru Thursday 8:30 to 4:00

Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew Gart can be reached on (571) 272-3955. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
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